

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2616 of 1986

Date of decision:24-12-1996

For Approval and Signature

The Hon'ble Mr. Justice S. K. KESHOTE

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India,1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

SURENDRANAGAR JILLA SUDHARI KAMDAR SANGH

Versus

SURENDRANAGAR JOINT MUNI.

Appearance:

MR NK MAJMUDAR for Petitioner
None present for Respondent

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 24/12/96

ORAL JUDGEMENT

The petitioner - Surendranagar Jilla Sudhari Kamdar Sangh - filed this writ petition praying for direction to the respondents to pay the employees mentioned in annexure-A salary equal to their counterpart who are employed on regular basis and also the benefits as are available to the employees on regular basis. From annexure-A to the petition it is given out that some other employees are working from the year 1972, 1979, 1980 and 1981. The counsel for the petitioner states that all these employees who have not attained the age of superannuation are still continued in service. The counsel for the petitioner further made statement that these employees have not been given regular pay scale though they are doing the same work and discharging the same duties which are being done and discharged by the employees who are in the regular employment.

2. The claim of the petitioner is based on the doctrine of equal pay for equal work. This petition has been filed by the Union and not by individual persons. Many of questions of facts have to be adjudicated upon for accepting or rejecting the claim of the employees for whose benefit this writ petition has been filed by the petitioner. That is not permissible to this court sitting under Article 226 of the Constitution. Moreover, the respondents have also not filed reply to the special civil application and in absence of reply it is not safer to accept the averments made by the petitioner and grant the relief as prayed for. The petitioners have not disclosed the equal posts as well as name of those persons who are doing same or similar work, but are in the regular employment. Material and relevant facts have not been stated by the petitioner and that is another ground for not granting the relief to the petitioners in this special civil application. It would have been better for the petitioner to raise industrial dispute, and this writ petition appears to be ill-advised. In case industrial dispute had been raised at that time, by now it would have been decided. Be that as it may.

3. Looking to the length of service of the employees named in annexure-A, they cannot be now left in dilemma. Their rights have to be adjudicated and decided for which proper course would be that the persons named in annexure-A may file representation to the respondents regarding their claim which is prayed for in this special civil application. The representation shall be made by the persons named in annexure-A to this petition within a period of two months. It shall be the duty of the petitioner to inform those persons in writing regarding

this order and to file representation before the respondents. The respondents shall decide the representation filed by the persons named in annexure-A within a period of three months from the date of receipt thereof. In case the claim of those persons for equal pay for equal work is accepted, then they will be entitled to actual benefits from the date of filing of this special civil application, i.e. 8th May , 1986. The benefits should be given to those persons within a period of two months from the date of passing of the order. However, in case the claim of the persons named in annexure-A is not accepted, then it will be open to those persons to raise industrial dispute in the matter. Petition stands disposed of accordingly. Rule discharged. No order as to costs.

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